

Message Text

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ACTION EB-07

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FM AMEMBASSY KATHMANDU

TO SECSTATE WASHDC 6228

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E.O. 11652 N/A

TAGS: EFIN NP

SUBJECT: USG CLAIMS AGAINST FOREIGN GOVERNMENTS

REF: STATE 189071, KATHMANDU 1783, 75 KATHMANDU 3220

1. ORIGINAL EMBASSY SUMMARY OF USG CLAIMS (75 KATHMANDU 3820) CONSISTED OF THREE CATEGORIES OF CLAIMS, I.E. REFUND OF INDIAN EXCSIE TAX ON POL IMPORTS; CERTAIN GON CUSTOMS AND SALES TAX REFUNDS; AND USADI MISSION CLAIMS FOR RETURN OF UNUTILIZED PROJECT FUND DISBURSEMENTS. USAID CLAIMS HAVE SUBSEQUENTLY BEEN RESOLVED.

2. AS WE POINTED OUT IN KATHMANDU REFTELS, THE 'CLAIM' INVOLVING INDIAN EXCISE TAX REFUNDS (NRS. 6,412,691, OR \$410,971 AT PRESENT EXCHANGE RATE) IS AT BEST CARRYING ONLY A SPECULATIVE CLAIM WHICH EMBASSY HAS BEEN CARRYING ON THE BOOKS SIMPLY FOR THE RECORD. IN ANY EVENT, IT WOULD NOT CONSTITUTE A USG CLAIM AGAINST GOVERNMENT OF NEPAL, BUT AGAINST THE GOVERNMENT OF INDIA. THE TAXES IN QUESTION ARE INDIAN REPEAT INDIAN EXCISE TAXES WHICH ACCURED TO THE INDIAN GOVERNMENT. REQUEST DEPARTMENT'S LEGAL DETERMINATION AND CONCURRENCE THAT EMBASSY CEASE TO CARRY THIS ITEM AS A CLAIM AGAINST GON.

3. REMAINING IS ONLY THE CATEGORY OF CLAIMS FOR REFUND OF GON CUSTOMS AND SALES TAXES INCLUDED IN THE PRICE OF ITEMS
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PROCURED LOCALLY BY THE EMBASSY. THE AMOUNTS INVOLVED ARE MINOR, TOTALING ONLY NRS. 192,362 (\$15,328) TO DATE, BUT NO

PROGRESS HAS BEEN MADE IN SETTLEMENT BECAUSE GON HAS ADOPTED
A "NON-NEGOTIABLE, POSITION ON THE MATTER. IN THE CASE OF
CUSTOMS DUTY REFUNDS, GON ACCEPTS OUR CLAIMS FOR REFUND,
BUT RETAINS A SMALL PERCENTAGE OF THE REFUND AMOUNT AS A
"SERVICE CHARGE" FOR PROCESSING THE CLAIM. IN THE CASE
OF THE SALES TAX ON POL, IN JUNE 1976 A FOREIGN MINISTRY
OFFICIAL INFORMED THE EMBASSY THAT THE TX IN QUESTION IS
NOT A SEPARATELY IDENTIFIABLE TAX, AND THAT OUR
CLAIMS FOR REFUND COULD THEREFORE NOT BE ENTERTAINED. WE
WILL CONTINUE TO PURSUE THIS MATTER, BUT IN THE MEANTIME WOULD
APPRECIATE THE DEPARTMENT'S VIEWS IN LIGHT OF THE SMALL
AMOUNTS INVOLVED.

4. ENCLOSURE 2 OF STATE A3925 WAS "INFORMATIVE OF POLITICAL
CONTRIBUTIONS" INSTEAD OF "COLLECTING DELINQUENT INTERNATIONAL
DEBTS". PLEASE FORWARD CORRECT REPORT.
MAYTAG

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